

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

SALLY CERVANTES

*Plaintiff,*

vs.

ACADIAN AMBULANCE SERVICE OF  
TEXAS, LLC D/B/A ACADIAN  
AMBULANCE SERVICE

*Defendant.*

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CASE NO. 5:17-cv-441

**NOTICE OF REMOVAL**

TO THE HONORABLE JUDGE OF THE UNITED STATES DISTRICT COURT:

Acadian Ambulance Service of Texas, LLC (hereafter “Defendant”), Defendant in a cause styled *Sally Cervantes v. Acadian Ambulance Service of Texas, LLC d/b/a Acadian Ambulance Service*, original pending as Cause No. 2017CI06980 in the 407<sup>th</sup> Judicial District Court of Bexar County, Texas, hereby respectfully files this Notice of Removal of said cause to the United States District Court for the Western District of Texas, San Antonio Division, and as grounds therefore would respectfully show unto the Court as follows:

**I. GROUNDS FOR REMOVAL**

1. This case is removable to this Court based on diversity jurisdiction pursuant to 28 U.S.C. § 1332(a).
2. Plaintiff Sally Cervantes (“Plaintiff”) is an individual residing in Bexar County, Texas.

3. Defendant, an entity incorporated in the State of Louisiana, maintains its principal place of business in Lafayette, Louisiana.<sup>1</sup>

4. As described more fully below, Plaintiff seeks to recover an amount of damages in excess of \$75,000.00, excluding interest and costs, from Defendant in a state court action.

## **II. NATURE OF THE PENDING STATE CASE**

5. On or about April 17, 2017, Plaintiff filed a civil action against Defendant styled *Sally Cervantes v. Acadian Ambulance Service of Texas, LLC d/b/a Acadian Ambulance Service*, under Cause No. 2017CI06980 in the 407th Judicial District Court of Bexar County, Texas.

6. This case concerns a health care liability claim in which Plaintiff alleges in her Original Petition that Defendant committed medical negligence while administering health care to Plaintiff on August 23, 2016.

7. The name and address of the court from which the case is being removed is:

407<sup>th</sup> Judicial District Court  
Bexar County Courthouse  
100 Dolorosa, 4th Floor  
San Antonio, TX 78205

8. Defendant has attached hereto the documents required to be filed with this Notice of Removal.<sup>2</sup>

## **III. JURISDICTION**

9. Pursuant to 28 U.S. Code § 1441(a), Defendant removed this action to the District Court of the United States for the Western District of Texas, San Antonio Division, because it is the District and Division embracing the place where such action is pending. In support thereof,

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<sup>1</sup> Please see Exhibit A.

<sup>2</sup> Case Summary, attached hereto as Exhibit B; JS 44 Civil Cover Sheet and Supplement to JS 44 Civil Cover Sheet Cases Removed from State District Court, attached hereto as Exhibit C; Plaintiff's Original Petition and Process, attached hereto as Exhibit D; List of all Counsel of Record, attached hereto as Exhibit E; and Index of Matters Being Filed, attached hereto as Exhibit F.

Defendant would show that this action is between citizens of different states, and the amount in controversy exceeds \$75,000.00.

10. Plaintiff, a resident of Texas, brought suit against Defendant, an entity incorporated and domiciled in Louisiana, seeking recovery for Plaintiff's alleged medical special damages, pecuniary loss, physical pain and suffering, mental anguish, physical impairment, and disfigurement, as well as pre-judgment interest, post-judgment interest, and costs of court, in excess of \$75,000.00.

11. Because Plaintiff and Defendant are citizens of different states and because Plaintiff seeks to recover an amount exceeding \$75,000.00 exclusive of interest and costs, removal is therefore proper under 28 U.S.C. § 1332(a).

#### **IV. TIMING OF REMOVAL**

12. Defendant was served with Plaintiff's Original Petition on or about April 26, 2017. This Notice of Removal is being filed within 30 days of service of the petition upon Defendant pursuant to 28 U.S.C. § 1446(b).

13. This Notice is filed less than one year after commencement of the action pursuant to 28 U.S.C. § 1446(c).

14. This Notice is therefore timely filed.

#### **V. NOTICE TO ADVERSE PARTIES AND STATE COURT**

15. As the removing party, Defendant will give Plaintiff prompt written notice of this Notice of Removal pursuant to 28 U.S.C. § 1446(d).

16. Defendant will also file a copy of this Notice of Removal within the 407<sup>th</sup> Judicial District Court of Bexar County, Texas, where the state court action is currently pending, as required by 28 U.S.C. § 1446(d).

**VI. ANSWER**

17. As of the time of the filing of this Notice, Defendant has not filed an Original Answer to Plaintiff's Original Petition in the state court action.

**VII. JURY DEMAND**

18. Defendant hereby requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

**VIII. CONCLUSION AND PRAYER**

19. In light of the foregoing, Defendant respectfully removes this civil action styled *Sally Cervantes v. Acadian Ambulance Service of Texas, LLC d/b/a Acadian Ambulance Service*, original pending as Cause No. 2017CI06980 in the 407th Judicial District Court of Bexar County, Texas.

20. Defendant prays for such other and further relief, both general and special, at law and in equity, to which Defendant may show itself justly entitled.

Respectfully submitted,

**GALLOWAY, JOHNSON, TOMPKINS  
BURR & SMITH**

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**ATTORNEYS FOR DEFENDANT  
ACADIAN AMBULANCE SERVICE OF  
TEXAS, LLC**

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the foregoing has been served via Electronic Court Filing to the following on this 17<sup>th</sup> day of May, 2017.

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